

BOISE, MONDAY, JUNE 11, 2012 AT 8:50 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

RUSSELL PETERSON,

Plaintiff-Appellant,

V.

LAURA KNIGHT PETERSON,

Defendant-Respondent.

Docket No. 39178

Appeal from the District Court of the Seventh Judicial District, State of Idaho,
Jefferson County. Hon. Robert L. Crowley, Jr., Magistrate Judge.

Swafford Law Office, Chtd., Idaho Falls, for appellant.

Dunn Law Office, Rigby, for respondent.

This case comes before this Court on an appeal from a magistrate court's determination on custody and visitation of minor children in a divorce proceeding. In a memorandum decision, the magistrate court awarded the parties joint legal custody of the children, with primary physical custody awarded to the mother. The father, Russell Peterson (Russell), alleges on appeal that the magistrate court abused its discretion by awarding unequal visitation time the mother, Laura Peterson (Laura), and by allowing the mother to move to Utah with the children.

BOISE, MONDAY, JUNE 11, 2012, AT 10:00 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

**FARM BUREAU MUTUAL INSURANCE)
COMPANY OF IDAHO,)**

Plaintiff-Counterdefendant-Appellant,)

v.)

**MICHAEL JOHN EISENMAN, KATHRYN)
MARIE, individually and co-personal)
representatives of THE ESTATE OF)
PATRICIA EISENMAN,)**

**Defendants-Counterclaimants-)
Respondents,)**

and)

**REBECCA L. MC GAVIN and PETER)
EISENMAN, individually,)**

Defendants-Respondents.)

Docket No. 38703

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County, Hon. Michael R. McLaughlin, District Judge.

Saetrum Law Offices, Boise, for appellant.

Moore & Elia, LLP, Boise, for respondents.

This appeal arises from a declaratory judgment action brought by Farm Bureau Mutual Insurance Company of Idaho (Farm Bureau). Farm Bureau commenced the action in response to a claim of insurance benefits for wrongful death damages filed by the personal representatives of the estate of a deceased policyholder (the Estate). Farm Bureau requested a judgment declaring that the Estate is not an “insured” under the decedent’s insurance policy (the Policy) and is therefore not entitled to payment for wrongful death damages under the Policy’s underinsured motorist coverage.

The district court granted the Estate’s motion for summary judgment, determining that Idaho’s wrongful death statute, I.C. § 5-311, entitles the insured’s Estate to recover damages for wrongful death and that the Policy provides coverage to pay damages that an insured is entitled to recover. Farm Bureau timely appeals, arguing that the Policy pays benefits only to an

“insured,” as defined in the Policy, and that the Estate does not fit within that definition. Farm Bureau asks this Court to vacate the district court’s judgment in favor of the Estate and enter judgment in its favor.

BOISE, MONDAY, JUNE 11, 2012 AT 11:10 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

**IN THE MATTER OF THE DRIVING)
LICENSE PRIVILEGES OF ALMA ELIAS)
CRUZ)**

ALMA A. ELIAS-CRUZ,

Petitioner-Respondent,

v.

**IDAHO DEPARTMENT OF
TRANSPORTATION,**

Respondent-Appellant.

Docket No. 39425-2011

Appeal from the District Court of the Second Judicial District, State of Idaho, Latah County. Hon. John R. Stegner, District Judge.

Patrick D. Costello and Maureen E. Laflin, Moscow, for Petitioner-Respondent.

Hon. Lawrence G. Wasden, Attorney General, for Respondent-Appellant.

Alma Elias-Cruz, was arrested for driving under the influence in 2010 after she failed a breath alcohol content (“BrAC”) test. Since Elias-Cruz was not of legal drinking age at the time of her arrest, she failed the BrAC test when it revealed a reading of .02. As a result of her arrest, the Idaho Department of Transportation (“IDOT”) suspended her license for 90 days.

Elias-Cruz contested the suspension of her license based on lack of evidence, and an administrative hearing was held before a Hearing Officer to decide the matter. At the hearing, Elias-Cruz presented expert testimony that the margin for error in the BrAC test rendered the .02 result unreliable, and therefore, should not have been considered in the suspension of her license. The expert also testified that since there are no physical signs of intoxication at BrAC levels as low as .02, there was not enough evidence to sustain suspension of her license. The Hearing Officer rejected the expert testimony and upheld the suspension of Elias-Cruz’s license.

Elias-Cruz then appealed the district court, which reversed the decision of the Hearing Officer. According to the district court, rejection of the expert testimony denied Elias-Cruz an opportunity for a fair and impartial hearing and violated her due process rights.

Upon appeal, IDOT argues that Elias-Cruz received a fair and impartial hearing because there is no margin for error to be considered in the BrAC results. IDOT also argues that there was no deprivation of Elias-Cruz's due process rights because the Hearing Officer's decision does not implicate due process protection and Elias-Cruz did not properly preserve the due process issue for appeal.

BOISE, MONDAY, JUNE 11, 2012 AT 2:00 P.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

**HON. LAWRENCE G. WASDEN, in his)
capacity as Attorney General of Idaho, ex rel.)
STATE ENDOWMENT LAND)
BENEFICIARIES,)**

Plaintiff-Appellant-Cross-Respondent,)

v.)

**STATE BOARD OF LAND)
COMMISSIONERS, and GEORGE BACON,)
in his official capacity as Director of the)
IDAHO DEPARTMENT OF LANDS,)**

**Defendants-Respondents-Cross-)
Respondents,)**

and)

GLADYS BABCOCK, et al.,)

**Defendants-in-Intervention-Respondents-)
Cross Appellants,)**

and)

**PRIEST LAKE STATE LESSEES)
ASSOCIATION, INC.,)**

**Defendant Intervenor-Respondent-)
Cross-Respondent.)**

**GLADYS BABCOCK, as Trustee of the)
BABCOCK TRUST, et al.,)**

Plaintiffs-Cross-Appellants,)

v.)

IDAHO BOARD OF LAND)

Docket No. 39084

COMMISSIONERS and GEORGE BACON,)
In his official capacity as Director of the)
IDAHO DEPARTMENT OF LANDS,)
)
Defendants-Cross-Respondents.)
)

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Valley County. Hon. Michael R. McLaughlin, District Judge.

Hon. Lawrence G. Wasden, Attorney General, Boise, for appellant-cross-respondents.

Farley Oberrecht West Harwood & Burke, Boise, for respondent- cross-appellant.

Hawley Troxell Ennis & Hawley, Boise, for respondents Idaho Board of Land Commissioners and George Bacon.

Charles B. Lempeis, Chtd., Coeur d'Alene, for respondent Priest Lake State Lessees Association, Inc.

The Idaho Attorney General filed this declaratory judgment action, seeking to have Idaho Code § 58-310A declared to be in violation of Art. IX, § 8 of the Idaho Constitution. That constitutional provision prohibits legislative enactments that allow the sale or other disposition of state endowment lands for less than the appraised value. Historically, when two or more persons have applied to lease such land, the State has been required to conduct a conflict auction. In 1990, the Legislature adopted Idaho Code § 58-310A, which exempts leases of cottage sites from the conflict auction requirement.

A number of cottage site holders on state endowment lands on Payette and Priest Lakes had previously filed an action against the State Board of Land Commissioners, challenging new terms sought to be incorporated into cottage site lease renewals for the ten-year period commencing in 2011. The lessees contended they had a right to renew the leases on terms basically the same as those in their ten-year leases commencing in 2001. The leaseholders particularly claimed that an increase in the rental rate constituted a breach of contract. This case was consolidated with the Attorney General's case.

The district court ruled against both parties. The district judge ruled that the Legislature had the constitutional authority to enact Idaho Code § 58-310A because it pertained to leases of endowment land, not sales. The district court ruled the leaseholders had failed to exhaust their administrative remedies before the Land Board before filing the action in court. Both parties appealed to the Supreme Court.